

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CYNTHIA STEWART-MATZEN,

Petitioner,

Case No. 2:15-cv-13054

v.

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

ANTHONY STEWART,

Respondent.

UNITED STATES MAGISTRATE JUDGE
ANTHONY P. PATTI

**OPINION AND ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS [1] WITHOUT PREJUDICE**

Petitioner, Cynthia Stewart-Matzen, is in state custody at the Huron Valley Correctional Facility in Ypsilanti, Michigan. She has filed a *pro se* Petition for Writ of Habeas Corpus [1] under 28 U.S.C. § 2254, challenging her convictions for burning insured property and arson of a dwelling house, obtained in Ionia County Circuit Court.

On the same date that the pending petition was filed, another habeas petition was filed in this Court and assigned a lower case number. *See Stewart-Matzen v. Stewart*, No. 2:15-cv-13050. That first-filed petition challenges the same 2013 convictions challenged in the pending matter, and is identical in substance to the instant petition. *See id.* The Court finds that the petition is duplicative of another case pending in this District and, therefore, dismisses the petition.

“[A] suit is duplicative if the claims, parties, and available relief do not significantly differ between the two actions.” *Serlin v. Arthur Andersen & Co.*, 3 F.3d 221, 223 (7th Cir. 1993) (internal quotation marks and citations omitted). A district court may dismiss a habeas petition when it is duplicative of a pending habeas petition. *See Davis v. U.S. Parole Com'n*, No. 88-5905, 1989 WL 25837 (6th Cir. 1989); *Marks v. Wolfenbarger*, No. 2:06-cv-14325, 2006 WL 2850340,

*1 (E.D. Mich. Oct. 3, 2006) (Edmunds, J.) (same); *Fusion v. Harry*, No. 06-13211-BC, 2006 WL 2421639, *1 (E.D. Mich. Aug. 22, 2005) (Lawson, J.) (same). This petition is duplicative of the earlier-filed petition and shall be dismissed.

Accordingly, IT IS ORDERED that the Petition [1] is **DISMISSED WITHOUT PREJUDICE.**

IT IS SO ORDERED.

Dated: October 7, 2015

/s/Gershwin A Drain

HON. GERSHWIN A. DRAIN
United States District Court Judge